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Remarks

Status of Claims:

Claims 10-20 and 22-26 stand rejected. Claim 10 is amended. Claims 10-20 and 22-26 remain pending.

§102 Rejections

Claims 10, 14-20, and 22-26 are rejected as anticipated by US 6380,545 to Bendall. It is respectfully urged that this rejection is improper for at least the following reasons.

First, claim 10 as amended recites among other things:

a handle operatively associated with the proximal end of the flexible member;  
wherein the handle comprises an actuator for operating the end effector through the flexible member, wherein the proximal end of the flexible member is fixed relative to the handle, and wherein the flexible member extends from a single end of the handle.

It is respectfully urged that the Bendall does not teach or suggest the apparatus of Claim 10, and in particular Bendall does not teach a proximal end of a flexible member is fixed relative to a handle, or a flexible member that extends from a single end of a handle.

Instead, Bendall teaches a "gripper" for an insertion tube, with the insertion tube 11 shown passing through the gripper. Column 2, lines 15-30 describe the gripper 10 as having a tube channel 12 running "throughout its length".

Second, and further, Bendall explains the insertion tube "only carries the raw video signal from the imager of the probe..." See column 2, lines 31-35. Accordingly, it is respectfully urged that Bendall also does not teach or suggest that the "gripper" comprises "an actuator for operating an end effector through the flexible member" as recited in Claim 1.

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Third, Claim 10 recites, among other things:

wherein an outer surface of the handle is sized and shaped to be gripped by a single hand and wherein the actuator is disposed on the handle to be operated by the same hand holding the handle without the use of the thumb or index finger of the same hand, while the thumb and index finger of the same hand are free to grip and advance the flexible member.

It is respectfully urged that Bendall does not teach such a handle configuration. In particular, the Examiner is requested to point out how one would operate the gripper 10 as described in Bendall such that a handle is operated by the same hand holding the handle without the use of the thumb or index finger of that hand. It is respectfully urged that if one grips the gripper 10 as suggested by Bendall's specification, the thumb and index finger would not be free to grip and advance a flexible member. Note also, that in the Abstract of Bendall teaches that the "user's other hand" is used to feed the insertion tube. Accordingly, it is urged that Bendall doesn't teach or suggest the subject matter of Claim 1.

Claim 14:

The Examiner states Bendal discloses a handle having a handle outer surface having a maximum width dimension disposed intermediate the proximal and distal ends of the handle, and the examiner refers to Figures 1-4.

It is respectfully urged that Bendall's Figures 1-4 show a gripper having an outer surface with a "minimum" (not maximum) width dimension disposed intermediate the proximal and distal ends. See "middle portion" 18 of Bendall which has a reduced width dimension. Withdrawal of the rejection is requested.

Claim 15:

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The Examiner states Bendall discloses an actuator comprising a lever adapted to be squeezed between the fingers of the same hand and a housing portion of the handle, and that Bendall shows the lever is pivotably supported adjacent an end of the handle associated with the flexible member.

It is respectfully urged this is not a correct characterization of Bendall. Claim 15 recites among other things the actuator comprises a lever pivotably supported adjacent an end of the handle and adapted to be squeezed between fingers of the same hand and a portion of the handle. Bendall discloses a joystick 20, control buttons 22, and a thumb trigger 33, but not a lever as recited in Claim 15. The Examiner is respectfully requested to point out what specifically in Bendall the Examiner considers to be a lever, or to withdraw the claim.

Further, even if the joystick 20, control buttons 22, or thumb trigger 33 were construed to be a "lever", it is respectfully urged that the Bendall would still not teach or suggest the subject matter of the claim because it is respectfully urged that Bendall does not include an actuator that comprises a lever, where the actuator operates an end effector through a flexible member.

As noted above, Bendall explains the insertion tube "only carries the raw video signal from the imager of the probe..." See column 2, lines 31-35. The Examiner is respectfully urged to explain how Bendall teaches or suggest an actuator for operating an end effector through a flexible member, where the actuator includes a lever.

Claims 22 and 23:

The rejection of Claim 22 should be withdrawn for at least the following reason. As explained above, Bendall does not teach or suggest a handle comprising an actuator for operating an end effector through a flexible member. Instead, Bendall discloses a gripping member 10 and an insertion tube.

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The rejection of Claim 23 should be withdrawn Bendall does not teach or suggest a release disposed at an end of the gripper. The Examiner refers to element 33 and 34 as releases, but it is not seen how these are disposed at an end of the gripper.

Claim 25.

The rejection of Claim 25 should be withdrawn because Bendall does not teach or suggest an actuator operable for closing an end effector and a release operable for opening the end effector. Bendall teaches:

"Depressing thumb trigger 33 causes gripping mechanism 32 to clamp onto insertion tube 11. Alternatively, releasing thumb trigger 33 causes gripping mechanism 32 to release the insertion tube 11. (See column 3, lines 5-32 of Bendall for discussion of function of triggers 33 and 34).

It is respectfully urged that Bendall does not teach or suggest an actuator operable for closing an end effector and a release operable for opening an end effector.

Claim 26:

The Examiner rejects Claim 26 as anticipated by Bendall, but the Examiner's rejection does not appear to explain how Bendall teaches or suggests the subject matter of Claim 26. The examiner is respectfully urged to explain specifically how Bendall teaches a release adapted to disengage a ratchet mechanism, as recited in Claim 26, in a non final action to give applicant a full and fair opportunity to respond, or withdraw the rejection.

Claims 16-20:

Claims 16-20: The Examiner rejects Claims 16-20, but does not appear to specifically explain how Bendall anticipates Claims 16-20. For instance, the Examiner does not explain how Bendall

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teaches a system as recited, including a set of instructions as recited. The Examiner is respectfully requested to address the claim elements in a nonfinal action to give the applicant a full and fair opportunity to respond.

Obviousness Rejections:

Claim 11 is rejected as obvious over Bendall in view of Zirps et al. It is respectfully urged that this rejection is improper for at least the following reason.

First, the Examiner states that Bendall discloses a flexible member 11 and an end effector operatively associated with the flexible member, but is silent with respect to the specifics of the end effector, and that it would be obvious to use an end effector in Zirps et al with Bendall's device.

It is respectfully urged that this is not a correct characterization of Bendall. As noted above, Bendall explains the insertion tube "only carries the raw video signal from the imager of the probe..." See column 2, lines 31-35 of Bendall.

Accordingly, it is respectfully urged that Bendall does not teach an end effector operatively associated with a flexible member, and for at least that reason the Examiner's basis for applying Bendall is improper.

Second, it is respectfully urged there is no motivation to combine the references. If, as the Examiner proposes, one placed an end effector from Zirps on the end of the insertion tube 11 of Bendall, how would one would be able to operate the end effector? Bendall's gripper 10 grips the insertion tube 11, but it is not seen how Bendall provides any teaching for actuating an end effector. For instance, what "actuator" in Bendall would be capable of operating an end effector, assuming that one were to try to attach an end effector from Zirps onto the distal end of

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the "insertion tube" 11 of Bendall? It is respectfully urged that there would be no motivation for combining the references where, if one did make the combination, the resulting combination would appear to be inoperable.

Also, as noted in the prior response, Zirps et al. teaches that its device's actuator is to be operated by the user's thumb (see, e.g., paragraph [0037] and Figs. 1A-1B of Zirps et al.). For instance, Zirps et al. teaches a "thumb lever 120" (paragraph 0037) and Figures 1A and 1B show the user's thumb being used to actuate a control. See also Figure 7 of Zirps et al. Accordingly, one would not be motivated to combine Bendall with Zirps et al. to obtain the claimed invention in view of Zirps et al. teachings noted above.

Likewise, the Examiner's rejection of Claims 12-13 as obvious over Bendall in view of Ganz et al. is improper because the Examiner has mischaracterized Bendall's teachings regarding an end effector, and because the Examiner has not provided any motivation for placing an end effector at the end of the insertion tube 11 of Bendall.

#### Conclusion

Based on the foregoing, all pending claims are in a condition for allowance. Accordingly, Applicant respectfully requests reconsideration and an early notice of allowance.

Respectfully submitted,

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